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| 10/752,398 | 01/05/2004 | Christopher N. Gab | 3172 PUS | 3585 |

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10/10/2007

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| EXAMINER |
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AYRES, TIMOTHY MICHAEL

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| ART UNIT | PAPER NUMBER |
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3637

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10/10/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/752,398

Applicant(s)

GAB, CHRISTOPHER N.

Examiner

Timothy M. Ayres

Art Unit

3637

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 August 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3,5,6 and 8-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3,5,6 and 8-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 10-12 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. The projection does extend horizontally outward from the corner edge, but is not disclosed as extending outwardly past the side edges or the end edges.

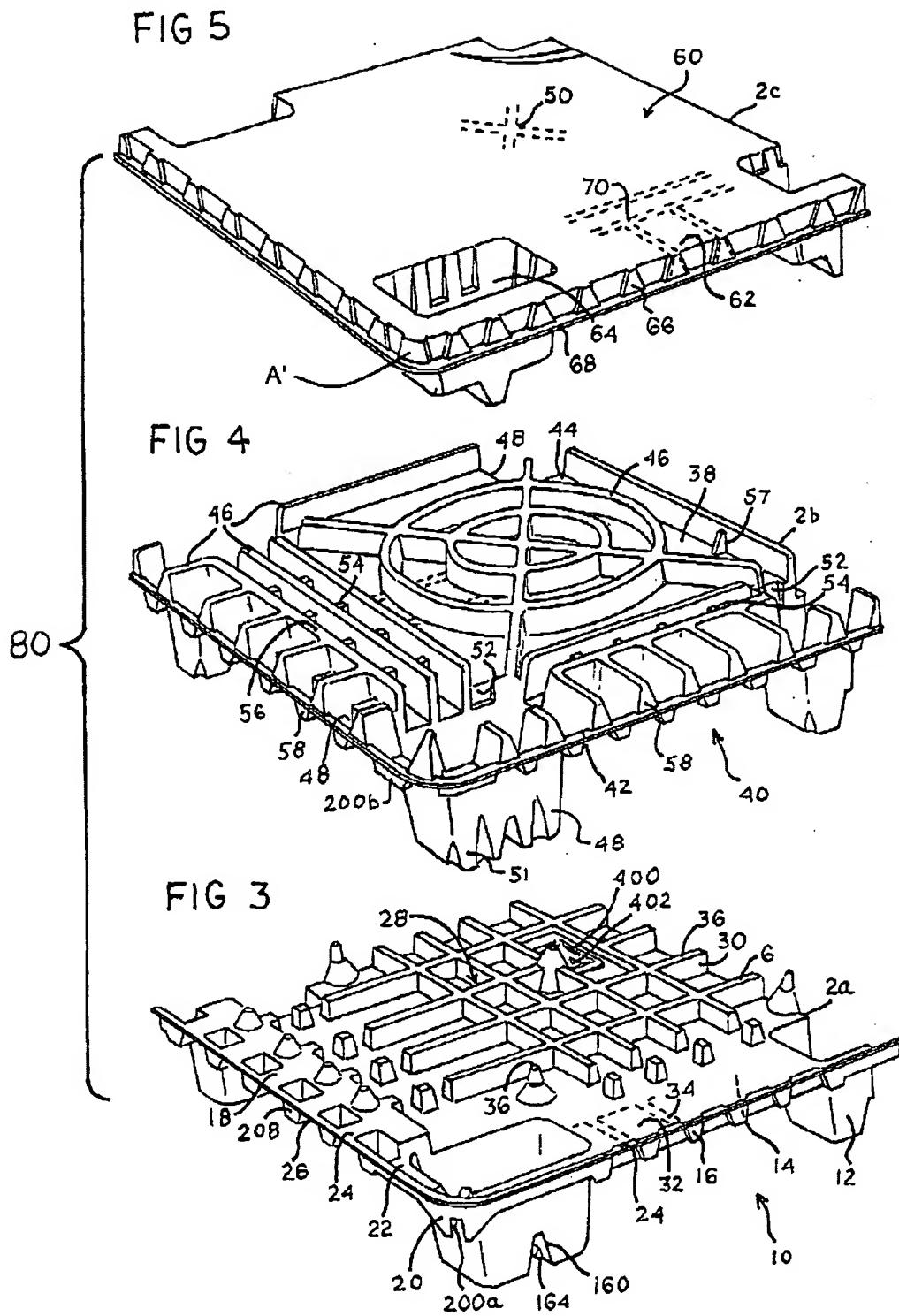
3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1-3, 5, 6, and 13-21 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
5. Regarding claims 1 and 13, the projection is integrally formed with the upper surface/panel of the pallet and is therefore part of the perimeter and it is impossible for the projection to extend beyond itself.

Claim Rejections - 35 USC § 102

6. Claims 8-12, 20, and 21 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent Publication 2001/0029874 to Muirhead. Muirhead teaches a pallet (4a) comprising a deck (14) with an upper surface (62) and a plurality of supports (12) extending downward from the deck. The deck includes a plurality of openings (64) for receiving the supports of a similar pallet. At the rounded corner edge (20) there are two projections that can be considered to be the at least one projection. First is the projection (200a) that extends outwardly in the vertical direction and is used to hold shrink-wrap (Page 9, paragraph 86). Second, as seen in figure 5 below, the deck includes triangular projections surrounding the edge extending in a horizontal plane outward, thereby the one (A') at the rounded corner is considered the at least one projection and is formed integrally with the upper panel. Regarding claims 8-12, 20, and 21, the projection (A') is considered to be the at least one projection.



Muirhead '874 Figures 3-5

7. The deck is made up of an upper deck section (60) with an upper panel (2c) having openings (64) and a lower deck section (10) having a lower panel (2a) with the supports (12) thereon. Regarding claims 11 and 12, the triangular projection (A') has an upper surface flush with the upper surface of the deck. Regarding claim 10, the triangular projection (A') does not extend past the side edges due to the other triangular projections, which define the side edge.

8. Claims 1, 13, 14, 16, and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent 5,341,748 to Liu. Liu teaches a pallet comprising a deck (1) with an upper surface that defines a maximum perimeter. Projections (5) are located at the corner edges and the midpoint as seen in figure 1. Pluralities of supports (2) extend downward from the deck and are nestable into openings (3) in the deck.

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

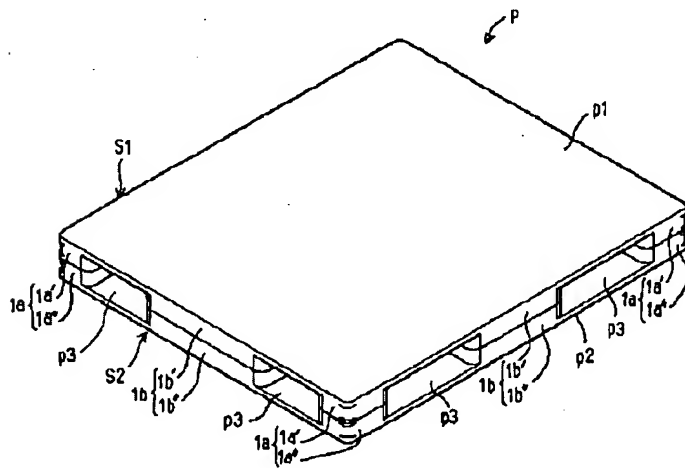
(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 1, 3, 5, 6, and 13-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent Publication 2002/0148393 to Milles in view of Japanese Patent 2001-270,525 to Ishizuka Glass. Miles teaches a pallet (10) with a deck (12)

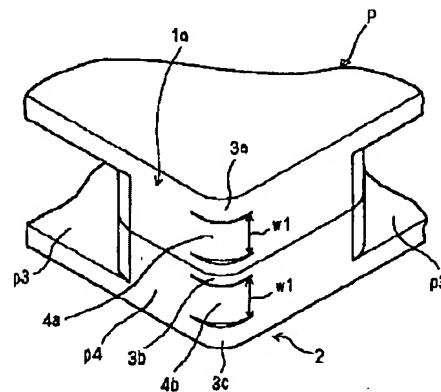
Art Unit: 3637

having an upper surface (13). The deck has openings (18,20,22,24,26,28) to receive supports (30,32,34,36,38,40) thereby making the pallet nestable. Milles does not expressly disclose rounded corners having a projection at the corner edges.

11. Ishizuka teaches a pallet (P) with a deck having an upper surface (p1) for supporting goods (A) as seen in figures 1 and 5. The upper surface (p1) is substantially bounded outwardly by side edges, end edges and corner edges between the side edges and end edges as seen in figure 1. A plurality of supports (1a, 1b) extends downward from the deck. At least one projection (3a) extends outward from the rounded corner edge as seen in figure 6.



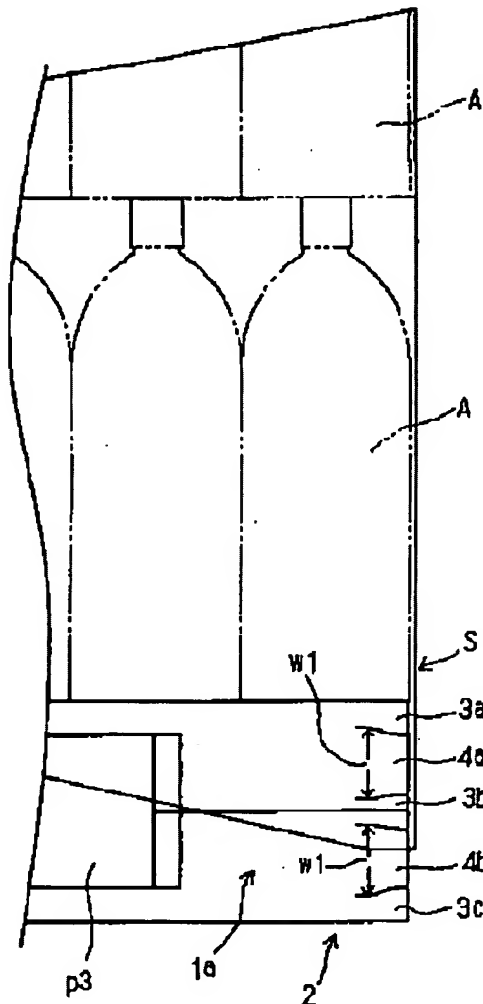
Ishizuka '525 Figure 1



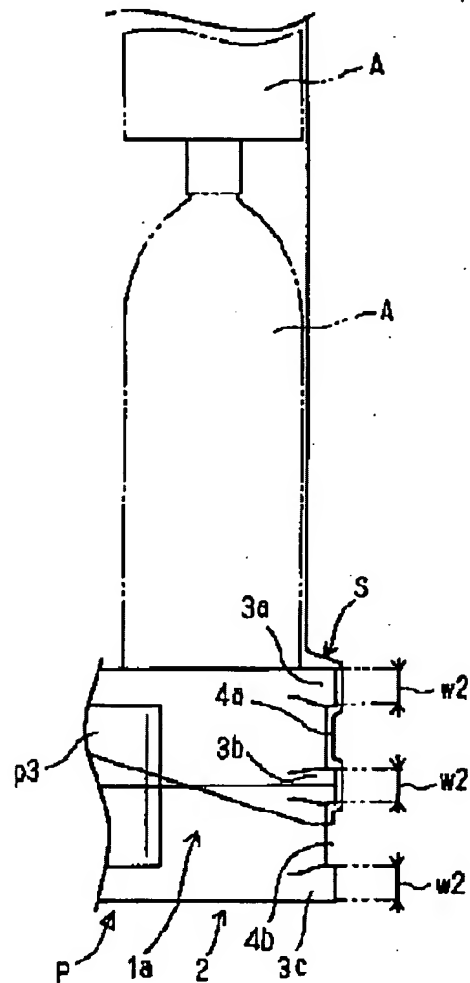
Ishizuka '525 Figure 6

12. The upper surface of the projection (3a) is flush with the upper surface (p1) of the deck as seen in figure 4. The plurality of goods (A) on the upper surface (p1) is wrapped with a wrap (S) to at least partially go around an edge adjacent to the projection (3a) as

seen in figures 3 and 5. The projection (3a) does not extend outwardly past the side edges or past the end edges as seen in figure 3.



Ishizuka '525 Figure 3



Ishizuka '525 Figure 4

13. At the time of the invention it would have been obvious to modify the pallet of Milles by having a rounded corner edge with the top projection as taught by Ishizuka to hold shrink wrap on the corner of the pallet better.

14. Claims 1-3, 5, 6, and 8-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent Publication 2004/0134390 to Apps in view of Japanese Patent 2001-270,525 to Ishizuka Glass. Apps teaches a pallet with an upper panel (20) having an upper surface defining an outer perimeter of the pallet. A lower panel (29) have supports (26) extending downward and align with openings (24) in the upper panel. The corner edges are rounded as seen in the figures. The pallet of Apps is constructed in the method/manner as substantially disclosed which results in a pallet with the same structure as claimed except for the at least one projection on the corner edges.

15. Ishizuka teaches a pallet (P) with a deck having an upper surface (p1) for supporting goods (A) as seen in figures 1 and 5. The upper surface (p1) is substantially bounded outwardly by side edges, end edges and corner edges between the side edges and end edges as seen in figure 1. A plurality of supports (1a, 1b) extends downward from the deck. At least one projection (3a) extends outward from the rounded corner edge as seen in figure 6.

16. The upper surface of the projection (3a) is flush with the upper surface (p1) of the deck as seen in figure 4. The plurality of goods (A) on the upper surface (p1) is wrapped with a wrap (S) to at least partially go around an edge adjacent to the projection (3a) as seen in figures 3 and 5. The projection (3a) does not extend outwardly past the side edges or past the end edges as seen in figure 3.

17. At the time of the invention it would have been obvious to modify the pallet of Apps by forming the upper panel with the top projection as taught by Ishizuka to hold shrink wrap on the corner of the pallet better.

Response to Arguments

18. Applicant's arguments with respect to claims 1 and 13 have been considered but are moot in view of the new ground(s) of rejection. With regards to claim 8 and the rejection with Muirhead, Muirhead clearly shows a projection (A') integral with the upper panel as well as all other limitations as claimed. In regards to arguments for claims 1 and 13, it is the fact the upper surface that defines a maximum perimeter of the pallet that Muirhead does not teach. Muirhead still does teach a projection that extends vertically outwardly/downwardly beyond a perimeter of the upper surface.

Conclusion

19. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the

Art Unit: 3637

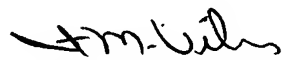
shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Timothy M. Ayres whose telephone number is (571) 272-8299. The examiner can normally be reached on MON-THU 8:00 - 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on (571) 272-6867. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

TMA
10/01/07



JANET M. WILKENS
PRIMARY EXAMINER
12/13/07